

BOARD OF ZONING APPEALS

Minutes

March 23, 1999

The regular meeting of the Board of Zoning Appeals of the City of Wichita, Kansas, was held at 1:35 p.m. on March 23, 1999, in the Planning Department Conference Room, Tenth Floor of City Hall, 455 N. Main, Wichita, Kansas.

The following Board members were in attendance: BICKLEY FOSTER, JOHN ROGERS, RANDY PHILLIPS, FLOYD PITTS. KEITH ALTER, JUANITA SWANN, DOUG MALONE, were absent.

The following Planning Department staff members were present: Secretary, DALE MILLER, DONNA GOLTRY; and Recording Secretary, ROSE SIMMERING. KEITH GOOCH was absent.

Also present were J. R. COX, Office of Central Inspection, SHARON DICKGRAFE, Law Department.

FOSTER, called the regular meeting of the Board of Zoning Appeals to order at 1:35 time p.m.

It was recognized that there were 4 voting members present which establishes a quorum.

1. Approval of minutes of May 26, 1998.

I didn't have any problem with them. I did want to point out to the board, that these were the minutes in which there was a substantial discussion about the question and relationship between the board of zoning appeals and the Wichita-Sedgewick County Planning Commissions on handling cases. And it was motioned then that Keith Gooch, was to table it until the next meeting, now we have never come back to the subject and I don't know that maybe we could discuss maybe at the end of the meeting a little bit about that Dale, but I just was noticing in these minutes we never got back to the subject. Are there any changes in the minutes.

PITTS I move that they be accepted as listed. **PHILLIPS** Seconded. We have a motion and seconded to approve the minutes. Do we have any discussion. Motion carries 4-0.

2. **Case No. BZA 25-98**, Wichita Residence Associates, pursuant to Section 2.12.590.B, Code of the City of Wichita, request a variance to increase the height of the permitted pole sign from 25 feet to 60 feet on property zoned ""LC"" Limited Commercial.

A complete legal description is available for public inspection at the Metropolitan Area Planning Department, 10th Floor, City Hall, 455 North Main Street, Wichita, KS 67202-1688. Generally located at the Southeast corner of Orme and Main (120 West Orme.

MILLER: reviewed the comments from the Secretary's Report and presented slides of the area.

BACKGROUND: The applicant is the owner of the Cambridge Suites by Candlewood, which is located on the property in question. There is an existing pole sign along the north side of the property advertising Cambridge Suites constructed to 30 feet height. Under the terms of the Sign Code, it is possible to increase this sign to 35 feet in height, provided no other sign is erected along that frontage.

The applicant is requesting a variance to allow the sign to be increased in height to 60 feet above grade, which is approximately the same height at the flag pole to the east of the property. The proposed sign is approximately 270 square feet in size (measured by taking the maximum width by the maximum height of the sign), and will be 60 feet in height above grade at the top of the sign. The sign will be internally lit, and will have the color scheme and design of the Cambridge Suites logo.

The applicant states in the supporting documentation that the existing pole sign is not visible from Kellogg in enough time to permit travelers to exit in time. The appropriate exit for eastbound traffic on Kellogg is the Main Street exit adjoining this property. The appropriate exit for westbound traffic is the "downtown" exit that is east of Emporia and provides at-grade access from Emporia to Main Street.

ADJACENT ZONING AND LAND USE:

NORTH	"LC and "CBD" - Kellogg/US 54 "Flyover"
SOUTH	"GO" and "B" - Multi-Family Residences
EAST	"LC" and "B" - Vacant
WEST	"B" - Single-Family Residences and Apartments

UNIQUENESS: It is the opinion of staff that the conditions on this property are not unique as virtually all of the commercial properties in the “downtown” area off the Kellogg flyover are similarly situated. With only one exit opportunity for each direction of traffic the signage needed to identify each exit as the appropriate one for this and all other commercial properties is an off-site sign placed far in advance of the appropriate exits. Logo signs are available through KDOT to provide notice to the traveling public in advance of the appropriate exit.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested may not adversely affect the rights of adjacent property owners, but that it would establish a precedent that could result in an increase of variance requests in this general area. Some property owners may not receive approval which would be construed as having an adverse affect on those property owners.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the Sign Code and Unified Zoning Code do not constitute an unnecessary hardship upon the applicant and if changes are needed they should be addressed in another fashion.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would adversely affect the public interest in that it would lead to numerous other similar requests and would significantly alter the appearance of this section of the Kellogg flyover and the entryway into the downtown area.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would be opposed to the general spirit and intent of the Sign Code and the Unified Zoning Code in establishing a new “standard” for the downtown area that should be addressed in another manner if the need to make such a change is warranted.

RECOMMENDATION: It is the opinion of staff that the conditions on this property do not support the requested variance and it is staff’s recommendation the variance be DENIED. In the staff’s opinion, to assume that raising the signs will solve the “problem” is erroneous because we feel that in order to achieve the results desired the sign would need to be significantly higher and larger than proposed. This goes against the spirit and intent of the Sign Code and the general development “policies” allowing signage along this corridor. Further, as noted earlier, logo signage is available from KDOT to resolve this issue much better than granting the variance.

However, should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, then it is the recommendation of the Secretary that the variance be subject to the following conditions:

1. The site shall be developed and required to comply with all other building, zoning and landscaping code requirements, except that the single pole sign be permitted to a maximum of 60 feet as shown on the site plan and accompanying drawings.
2. The applicant shall obtain all permits necessary to construct the signs and the signs shall be erected within one year of the issuance of the sign permits in accordance with this BZA resolution, unless such time period is extended by the BZA.
3. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

FOSTER: Dale would you go back to the slide just, just the last one you showed us. OK! The building on the left then, is that the Residence Inn or not? I don't know.

MILLER: No it would be just to the west, approximately that location.

FOSTER: One other question I have was, they had a case in last time and it was, I guess withdrawn, do you know how high, I know you might even have been here then, but.

MILLER: It was originally 50', and they deferred.

FOSTER: An entirely new case

MILLER: Yes!

FOSTER: OK! Are there any other questions for the staff.

PHILLIPS: In deferring this the last time, one of the things we had asked and hoped for was that staff could get some ideas of what were some of the comparative heights of some of the other signs in the area. I don't know if J.R. or anybody got a chance to do that.

MILLER: If they did nobody passed that along to me.

FOSTER: Any other questions. Thank You Dale! We will open this to the applicant now. We ask you to come forth and please identify your name and address for the minutes.

GREGG KOSSOVER APPLICANT: I represent the owner of the property, the owner

is Jack DeBoer. The property is managed by Candlewood Hotel Co. and our address is 9342 E. Central, 67206, and along with me today is Judy Manka from Luminous Neon. I would like to take a second if I may and provide a quick history.

We were here in January asking for a variance from 30' to 50' and the board suggested that 50' feet might be too short to provide ample time to give patrons notice of the hotel, so we have gone back and suggested 60' would be more appropriate. The staff report addressed several concerns. The two main concerns are whether or not we have a hardship, and whether or not this sets a precedent. There is a hardship, our sign was of ample height before the flyover was built. The flyover is built, our sign is not as visible as it once was. We have invested 1.7 million dollars in this property. One of the concerns of the staff in January was what would a sign do to the entrance of downtown. I would like to turn the tables on that for a second, and point out, that this is on the south side of the flyover. I drove from West street to Oliver and there are maybe a half a dozen business on the south side of the flyover. And there is but one other retail business that I could see and that is the bank right across the street from us. What we have done is, we have made the corner of Main and Orme the most appealing corner on the south side of the flyover through the entire downtown district. And what we are requesting is to have the sign heightened so that we have the same opportunity for our patrons to see the hotel as what they had before the flyover was built. The staff report specifically addresses several things. One is the uniqueness of this property.

Basically the staff says this is not a unique property and I disagree with that. We are now the only lodging on the south side of the flyover and we are one of just a handful of upscale lodging facilities for downtown Wichita. The other two being the Hyatt and the Hotel in Old Town in our opinion. We just spent roughly \$25,000.00 per key in renovation, which is why we want the sign to be raised. We are also one of the very few business that I can tell that was negatively impacted by the flyover. As far as visibility of signage goes. Also the because we are on the south side of the flyover and not the north side. I don't think even if the sign was unappealing to some people I don't think it would impact the esthetics of the entry to downtown because you don't ordinarily be looking south when you look towards downtown. Secondly the staff addressed the adjacent property and the staff I think correctly pointed out that having the sign raised would not adversely effect the adjacent property, and clearly we agree with that. What I don't agree with though is the staffs concern with setting precedence. The only precedence we would be setting here is, in my opinion, is for those business on the south side of the flyover that need visibility, and like I said before, from West Street to Oliver which is a six mile stretch, I can only find only one other retail business that might request a sign to be raised. And that is the bank directly to the east of us across Main street. The other suggestion from the staff was that the lack of having appropriate signage does not cause a hardship and I disagree with that. When people are looking for a hotel, especially travelers coming from out of town, we need to have them be able to know where are and they need to be able to find us to keep their frustrations down. Public interest comments from the staff reports was that this would lead to other requests and alter the appearance, and I think I have already addressed those two. I don't think that will lead to an influx of requests at least on the south side

of the flyover. I don't think it would have a negative appearance on the entry to downtown. Finally they address the spirit and intent of the code, in that this opposes the spirit and intent and that's not true. The way I read the code is, the code is suppose to be harmonious to business I believe is the exact language. And that it would make a safer exit and I think if we had the sign raised instead of where it's at today both of those would be the case. I would like to bring Judy Manka up with me for a minute. Judy is from Luminous Neon. She can address the specifics of the sign and maybe share some more information.

JUDY MANKA, LUMINOUS NEON SIGN COMPANY FROM HUTCHINSON AND GREG KOSOVER WORK FOR THE OWNER OF THE PROPERTY THE OWNER OF THE PROPERTY IS WICHITA RESIDENCE ASSOCIATES THAT IS A COMPANY THAT IS WHOLLY OWNED BY JACK DEBOER: What I wanted to address

FOSTER: Would you state your address please.

MANKA: Yes. 1429 West 4th Ave, Hutchinson, I want to pass out some material to you first that I want to go over then. Gregg is passing out a list of considerations that, that we want you to look at that we feel are new considerations from the last meeting. Also, a new set of pictures that I made, basically to answer the request of the board from last time. If you will notice there the directives and I have from the February 23, but that was actually from the January meeting, as applicants we were to do the following. We were to look at 50' as the height being considered to be sure that it was adequate for visibility. We were to investigate the height of similar signs in the same area, and we were to investigate other alternatives for identifying exits to the hotel. Gregg and I did drive through several times. I don't, I know that you all have had a couple months to look at this. I hope you all have looked at this situation. I get the feeling that perhaps that's not the case. We did look at it again and based upon the fact that the flyover gives that 60' in height we do feel that the sign will be visible coming both from the east and from the west. The pictures that were taken by Dave Yearout you can tell if you go back particularly that first one as you are coming from the west, east-bound. He obviously was standing clear over, way over to the right side of the roadway. There is a bend in that roadway, that if you were way over to the right, it's true that the trees there do block that sign, but no one would actually be driving that far over to the right. If you will look there on pages two and three. Page two is for west bound traffic, and as you can begin to see even in the second picture down. I am a long ways back from the exit. The flag is already visible. Certainly in the third picture down you can begin to see it even more. But if you have had time to drive this I think you , specifically if you look for the flag. I think you would see that it was visible both from the east and from west bound traffic. I want to call your attention to the first page, because I think to me this is one of the biggest considerations maybe to be looked at today. We were asked to look at other business in the area, and the height of other existing signs. And so I did go and take pictures of, particularly the properties that are on the south side of the flyover. The top picture and the one to the left just below it

obviously are of properties that are closed. The one just to the right, the second one down is the existing World Lodge. As a person who lived in Wichita, and am now an out of town person. I would not be very proud of this entrance into the City of Wichita. This is what a lot of people see when they first come off Kellogg and come into the downtown area. The two pictures below obviously are of Cambridge Suites. I think they reflect the amount that has been spent to update and revitalize this area. As Gregg pointed out it is certainly the best looking property there. There is a bank just to the east of them. That bank sign is between 25 and 30' tall, however again that bank does not rely on out of town consumers for their business. The building at the top is the one that is an adjustment to the bank and the second one down is the other hotel that has been closed for some period of time. The Royal Lodge sign which if you turn to the second page was my attempt to show you that the Royal Lodge sign, is visible from a great distance, coming from the east or west bound traffic, you see it in plenty of time to exit. If you will notice in the bottom picture, it does actually sit above the roadway. Now the City was to find out what the height of Kellogg was at Cambridge Suites, was that determined Dale?

MILLER: I thought in the staff report there was a comment on what that height was. Let me see if I can find it.

MANKA: While he is looking for that, you'll also notice that the things I have circled also show that you have a roadside bulletin there. A rotary bulletin, the large one the 14 x 48 that I also circled to show how visible it was. I would like to call your attention to item #7 on the sheet that I handed out. And I took this out of the sign code where it said off-premises signs. I'm pointing out that they are actually allowed to be larger than the businesses who front Kellogg. And this is per section 24.04.222 from the City of Wichita sign code in which quote "of site signs located adjacent to an elevated portion of a highway structure may be erected to a height of 14' above the top of the railing or barrier along the traffic deck". It's interesting to me that, that kind of provision was made for an off premise sign, but is not also to be allowed for the business that actually front that roadway. And to me that certainly does not seem to be justified. If that exception is made, knowing that those signs will only be visible if they are above the roadway then I then think the same exception should be made for business who choose to buy and certainly refurbish property along Kellogg. Dale did you find that yet!

MILLER: I'm not seeing it. I thought there was a number but I don't see it.

MANKA: OK! Again I think one of the things that I have noticed and I have worked in lots of cities across the United States virtually everyone that I am aware of does have a special consideration for signs that are on property that front a flyover such as Kellogg. I think that a special dispensation was obviously given to the business at West street and Kellogg and we discussed that last time. Knowing that those retail business in order to be visible for traffic whether its from an advertisement standpoint or an opportunity to exit. A precedent has already been set by allowing those signs to be as

tall as they are. I know that in terms of investigating other alternatives for identifying exits to the hotel which was our item #3, again Gregg and I drove that several times, looked for other opportunities to legally put up signs that would lead into the hotel and most of that property along there is zoned residential. There is not another opportunity for a sign. I know that there is a highway, a KDOT sign, that does have a place for logos on it. I am not sure that Dale realized, I couldn't tell from what he was pointing out the Cambridge Suites already has a sign on that KDOT sign and it is so small that you virtually do not see it. As I pointed out I drove past that location several times before I even realized that a KDOT sign was there because you're used to looking for those more on a highway, like I-70 or something of that type. So we don't feel that really is going to certainly solve the situation at all. I think most of the other things have been covered by Gregg, certainly as a city I am sure you want to see this property to continue be successful. I would think you would also want to encourage other people to come in and do what the Cambridge Suites people have done and buy business in that area that are depressed and refurbish them and update them so that the entrance into Wichita is a good one. I know that you have had one other application, I believe it was from Spangles, for having a taller sign. I don't have that picture with me, but if you will drive by and look at Spangles sign, it is non-conforming right now. I can't believe they think it is an improvement over a taller sign. It's got to be way over square footage. It also takes a changeable copy sign that goes all the way down to the ground which is certainly non-conforming. So that is the case we would like to make. We are certainly open for any suggestions that you have developed over this two month period, or that the city as come up with as an alternative to make this property more visible to the traveler who is coming to Wichita to stay here. Any questions!

FOSTER: Manka let me mention there are other people in the audience hearing this so they might be interested to note that the City of Wichita over the years has had various sign controls. And so what you see there represents a period of time, the most recent one's both lowered the height of signs generally, and reduced there size. More or less putting in context the history of the zone code. Some of you see there where under different regulations at different times. Let me ask you about the one, the Royal Lodge. May one assume that it is rather low and it's not gonna draw people off the highway right!

MANKA: It is a 35' tall sign, Gregg and I realize that even coming from the west going east that you could see the Royal Lodge sign really almost in time to exit. Even if you were coming from the west. Because of the way the roadway drops down by the Royal Lodge their sign is visible certainly coming from the east and it really is even visible coming from the west. Again if you have driven that location and looked at it the way that we have then you would realize that they really are being penalized very little. But I also would call attention to what there property looks like compared to Cambridge Suites.

FOSTER: When was the Wichita Residence Associates, when did they build the

facility that wants the sign there now.

KOSSOVER: We built the facility in 1975.

FOSTER: OK! This was obviously before the flyover was designed.

KOSSOVER: Yea! That's Correct!

FOSTER: OK! Are there any questions for the applicant!

PHILLIPS: In relationship to the north property line where is the sign positioned, contrary to what you've said earlier about the board not being involved. I can't speak for all of them but I have paid particular attention. I drive by about every day and I made special attention to go back and look at things, so I'm kind of curious where the property line is in reference to the center line or the base of the sign. In other words how far north of there?

MANKA: The existing sign in terms of what we would call the leading edge of the sign is just inside their property line. There is a fence that runs along there that designates their property line. And the actual pole is several feet inside, but certainly the leading edge of the sign does not project there property line to the north. I may have a picture that shows that Randy if you want to see what I'm talking about.

PHILLIPS: That would be fine. I would like to see that! I mean I did take a good look at it but for the rest of the board it might be good to show that.

(Discussion and showing pictures)

PHILLIPS: So is there any latitude there regarding repositioning of sign? Because, in all honesty as I drove and looked at this thing very carefully. I think one of the unique things about this thing, or one of the things about this is that maybe not the height so much of it but where it is positioned. And I think that the fact that you brought in the Royal Lodge tells you the proximity to the overpass, flyover is one of the keys. The fact that it sets back here I think hurts you more than the overall height because I drove it several times and it's, if that thing were another, just a few feet, five or ten feet, forward you would actually get better use out of it. Just at the height that it is.

MANKA: There is a, there is a building and let me look through my picture to see if I can make my point. There is a building to the north of where the sign is now. There is a possibility and (I don't know that, that will show it). You might take that around and show that to them, Gregg. There is a building to the north, there is a fence to the north of that building.

PHILLIPS: That is a temporary building through, isn't it"

MANKA: There is a possibility that perhaps that sign could be moved I'm saying to the north, I mean to the east. There is a building, you see that building to the east of the sign.

PHILLIPS: No that doesn't do any good. The whole point is that...

MANKA: You can not move it much further to the north. The east would actually help you a little bit. If we could move it a little bit to the east that would help because there is also a curve there that you're dealing with. Moving it to the north is not a possibility.

PHILLIPS: It's not possible, I wondered because I didn't know where the property line was, there is obviously some ground between there and the down ramp and so I just wondered.

MANKA: Right, that is a separate lot. That is not there lot. Where you have the area just to the north, that was an old parking lot area for the Residence Inn. I think this is what you are talking about.

PHILLIPS: That I can't see. There used to be a drive-thru there if I understand it.

MANKA: Yes, that is a separate lot.

PHILLIPS: It appears as though the leading edge is not where you say, the fence is on your property, that's quite a ways back.

MANKA: Well it is a ways back, but again you got a building here and you are only talking about this view. It is probably deceptive. You're talking about maybe being able to move the sign maybe 8 to 10' that's kind of a guess.

PITTS: And you could still raise it 5 additional feet in height, could you not.

PHILLIPS: Well what ever you do I would make a recommendation to you to try moving it as far forward as you can, because I think that will help you as much as anything. I do think the point for the Royal Lodge is a good case. The proximity to the traffic does help. I guess I'd like to, I guess speaking now, to be real honest from a board member standpoint I'm probably gonna have a hard time approving 60, I had, I mean it was a little difficult for me last time understanding 50, 60 is probably gonna be, in fact I won't vote for 60. If there is a way you can reposition this and we can talk about some numbers based on the code as far as that margin being 14' over the traffic way. I mean I can see some lead way here from my stand point. I can't create 60'. I mean I think that does set a dangerous precedence, I think it's over and above what we

have kind of look at as allowable conditions. We have tried to in the past, tried to come up with a formula we felt was fair and sometimes in excess of what was allowed by the ordinances. So, from just my own stand point I have a hard time with 60, but if you think there is something we can do that can help you in repositioning that and finding a agreeable height to it I don't have a problem with that. But 60 I have a problem with, now what I looked at to was a temporary building. I don't know what all of it is in there, what is in it. I would suggest trying to push it forward a little bit cause I looked at that if the sign that you had is 10 or 15' forward, or as far as you can north, I think you could see it better. That's where I started picking it up.

KOSSOVER: I would like to respond real quickly Randy, the reason why we did go to 60' is because one of the recommendations that came out of our meeting in January. From this, I don't know if from the staff or the board, I really can't recall, was that 50 might be to low to accomplish what we were trying to accomplish which is why we came back with a change recommending 60. Secondly, I do disagree that this would be setting a precedent except for maybe one or two business because of the nature of us being on the south side and I think the ordinance says I don't know how they have changed in relation to the flyover but perhaps the ordinance is out dated. Because we didn't, we, we, the flyover had to be built to improve the traffic patterns. We understand but, what we are trying now to do is to restore the visibility of our sign back to the way it was before the flyover was built.

PHILLIPS: I understand, I think you are also looking at the fact that the precedence you think is applying only to the area. We have had numerous cases that every flyover that has existed along there, and so it is not a precedence for this one. I can appreciate the situation you are in because I know the property I know the owner and everything and I'm all for, for everything that's been done there. And so you'll know that corner across the street from you is going to improve. It is going to be a four story building there. But I'm just telling you from a board member standpoint that I have a hard time with 60'. I don't think, and I think if we look back that our recommendation was for you to change it to sixty, I think we were saying from a matter of height standpoint to really be effective at the position and location that it is at, it would have to be higher. I think, as I remember at least from my standpoint, I was thinking that 50' probably wasn't an effective height. And if you took that from that I don't think this board recommended you change.

KOSSOVER: No you didn't specifically say to change it to 60'. You did say what you just said though and that 50' would be an in effective and so the logical choice for us was to try to raise it 10' to try get more visibility.

PHILLIPS: I understand, I understand your position. Now I'm not trying to be argumentive from that stand point, I'm trying to explain what I think was the intent and sometimes maybe that's not always apparent here. But I'm just telling I'm not going to vote for 60 if there are some other things you can help offer us that will help us get

through this today I'm willing to listen. But 60' is not gonna work for me. And just from a practical standpoint I will tell you, I drove it from a standpoint of how can I see it, and I was looking for it, and if it was moved forward I think... you can be very effective with it. I'm willing to let the board figure out a formula for whatever increase we're talking about over and above the 35'. I have no problem with that, but 60 I do have a problem with that.

FOSTER: While you're thinking about his comments, collecting your thoughts, let me ask a couple more questions. One of us, to the staff here, to just clear up a couple of things, I mentioned when we first began the meeting and I'm not doing it because of your case, but you're number one so I might as well finish what I should of said when we started this. Is when we have four board members, Sharon will you help us out here, when we have four board members what we...

DICKGRAFE: There has to be an affirmative vote of all four members. It takes four votes to pass or deny a motion. If the vote is three to one, or two to two then it would come back and be deferred to the next meeting.

FOSTER: In other words if it is a divided vote and it's not four votes either way, so to speak, we have a rule that we bring it back, if the applicants willing, we bring it back to the next meeting where there hopefully may be more members to vote on it. I just want everybody to know that. Second. Dale is on his phone there. I'm a little bit concerned about how any other sign and what precedent this might set. You know we are talking here about sort of fixed base signs by businesses that are there. What about these billboard and so forth. In other words, if the Hyatt wanted one and Broadview wanted one and so forth could they ask to put one up here too!

MILLER: The sign code is pretty complicated. There are billboards which are pretty strictly regulated. But I suppose it would be possible for most of those business to ask for those signs or some other additional signage from their site. Each one would be a little different because of there circumstances but...

FOSTER: It could be off-premises signs requested that might get higher or want greater height.

MILLER: No it couldn't be off premise. They would have to be on the site or otherwise they would be called a billboard as I understand it. I guess all I can say is that the Spangles folks came in quite a while ago. At the time I wasn't dealing with this particular board, but we told them the same thing. We would not support an increase in height for their sign and some of you may remember some of the signs, for example here on the west flyover I think staff opposed those as well. So in terms of staffs position, I think we have been pretty consistent irrespective of where the location is.

FOSTER: Signs at this particular location I think are more noticeable than perhaps any

others as you cross 54, as you're getting a view, of the downtown area. This is not the case when you get into west Wichita or even east Wichita, it's not a view, so to speak to be looking at.

PHILLIPS: I do have to agree, I think the property is unique. It was one of the first ones there. The bend in Kellogg does create a problem for them in fact that there is another property in between the area of the trees, the building and things. All that, plus there is some construction there but on the other hand I mean those have always been there and I think you're right Dale, the staff I think has been very consistent. What we have allowed just so you know, we have always come up with some sort of formula that has been applicable or not a substantial deviation from the code, but a logical deviation. We have not allowed anything, anybody to come here and have exactly what they wanted other wise you would see signs that, I think one sign wanted 80' or more. I don't think you're gonna fine an 80' sign out there, so...if we can come up with something and I think that the section is in item 7 that you pointed out in the list you gave us I think to me that is pertinent. I would look at something like that.

MANKA: Ok that's what I wanted to be sure that, that we clarified that if we determined what the roadbed height is at that point then you'd be willing to take a look at both us moving that as far to the north and perhaps to the east as we can. Also taking into consideration that it would be at a height that would be above the roadbed.

PHILLIPS: As far as I'm concerned, I'm just speaking for myself. I do think you have a hardship. I do disagree with that comment there from the staff. I do agree, excuse me, I do think it is unique.

MANKA: I feel like at this point we have kind of done our homework to this point. We would be happy to take a look at what you are requesting this time. I also respectfully submit that I hope the City will provide us with the same consideration and that would be to get us the height of the roadbed but also to look at other possible alternatives. Other than the KDOT sign they are already on the KDOT sign and that is not helping.

PHILLIPS: Is that lot you showed me a picture of, that was parking I think, was parking for the restaurant when it was there. Is that public property now? Do you know who owns that. Is there any such thing as a conditional use.

KOSSOVER: The lot directly to the north and east of our...we own that too.

PHILLIPS: OK, but the property north of your fence, is there.

MANKA: He owns, they own that lot, that's what he's saying, but it is not apart of the Cambridge Suites parcel.

KOSSOVER: We would not want to put a sign up there because we may want to sell it

to a restaurant or some other use.

DICKGRAFE: He'd also have a problem with that. That would now be an off-premiss sign.

MANKA: That would be an off-premiss sign. But we can certainly look at moving, see if there was another opportunity to move that both to the north and to the east. And we will be happy to take a look at that.

PHILLIPS: Like I said I really looked at this very impartially and very closely. That's a fare observation. I really realized that is one of the properties where, 10 or 15', I'd think, would be a big advantage if you could get something like that to the north, and I think if it goes to the east it helps too.

MANKA: It does help if it goes to the east.

FOSTER: Let me ask other members here, you presented a lot of information, photographs and so forth, I haven't time to read the whole list here, I was not at your meeting two months ago. This is the second meeting I have missed in three years so I don't remember it. Let me ask Pitts were you there, do you recall, were you there?

PITTS: I was here at the meeting.

FOSTER: Were you here Mr. Rogers?

ROGERS: Yes I was.

FOSTER: So we've got three members that at least were here. I wasn't there so I probable know less than they do.

PITTS: It is my recollection, Mr. Chairman, that staff one member whom has left the city, employment with the city, did suggest that we were not, not we as a board, but I guess the Planning Department would be taking an overall look at increasing the height and signage in general along this corridor, along the flyover part of it. And see if we couldn't come up with some general formula. I don't recall there ever being any suggestion being made that if they were to resubmit the height being raised an additional 10' from what they were asking for before that we would be more inclined to approve it. But Mr. Yearout has left the employment with the city, so what he has done in that investigation I don't know. But as far as me, a board member concerned, I haven't been considering this request for the last two months, I was thinking staff was going to come up with something, general regulations.

FOSTER: Would it be to you're advantage to table this another month.

MANKA: I think so!

FOSTER: I think it would give us and staff time to look it over. I would like to go back and look at it again. I haven't seen it for awhile frankly, and I would like to use your photographs and to me it is sort of a landmark decision. I think we would be making a very important decision here and it shouldn't be made lightly and I would not like to see it any higher than it would have to be, lets put it that way, in line with what Mr Phillips is saying. Would you be agreeable if we had a motion to table it for next month to let you look at it again and our staff to look at again and maybe we'll have more memory at that time too.

MANKA: We would be agreeable to that. I would like to make one more comment just for the record. I notice the blue sheets last night, or this morning. At the January meeting at the CPO we attended we got unanimous approval for the 50'. I look over there today I see unanimous disapproval for the 60' feet, and it does make a comment that we were not present last night, I would like for the record point out, that I was at the designated spot at 7:00 last night and they must of moved the meeting because no one showed. And obviously I wasn't in the right spot but...

FOSTER: It has been moved by Phillips, and second by Mr. Pitts. Are there any discussions. We will look forward to seeing you next month.

MANKA: Dale will you get us that information as soon as possible.

MILLER: Carl Gibson say's he thinks it's at twenty-five feet but certainly no higher than 30 feet. He said he would be surprised if it is 30'.

MANKA: Would you mind if we went ahead and took our own measurements just to verify that. Thank you.

MILLER: Go right ahead.

3. **Case No. BZA 3-99**, Sherman Steeby, and John Steeby pursuant to Section 2.12.590.B, Code of the City of Wichita, request a variance to allow limited manufacturing on approximately 1.6 acres of property zoned "LC" Limited Commercial legally described as follows:

Lot 1, Steeby Addition, Wichita, Sedgwick County, Kansas.
Generally located at 162 East of West Street on St. Louis Ave.

FOSTER: Variance for minimum lot size in regard to manufacture.

MILLER: reviewed the comments from the Secretary's Report and presented slides of the area.

BACKGROUND: The applicant is proposing to conduct limited manufacturing activities on a 1.6 acre site that is zoned "LC", Limited Commercial located approximately 162 feet east of north West Street on St. Louis Avenue. The "Unified Zoning Code" requires that sites zoned "LC", Limited Commercial used for limited manufacturing purposes must have two acres.

Currently the lot is vacant. The applicant proposes to construct a 40' x 50' building with metal siding and a 1/12 sloped roof for operation of a manufacturing facility to assemble aircraft parts. Employment for the operation is projected initially to be three employees.

Other Unified Zoning Code requirements for limited manufacturing operations located on property zoned "LC" Limited Commercial to be subject to additional conditions, including provision of off-street parking, provision of building setbacks of at least 30 feet from adjacent property zoned for residential use, no outside storage is permitted, and no more than 15 employees per acre of lot are allowed during a work shift. Additionally, the building must conform with compatibility standards that no building or other accessory structures may be located within 25 feet of adjacent property zoned for residential use and that landscape screening be provided along borders of property zoned for residential use. Noise from the assembly operation will need to meet residential noise standards in the adjoining the residential areas.

The site plan submitted by the applicant exceeds the required number of parking spaces. The proposed building is situated 30 feet from the property line that is adjacent to property zoned "SF-6" to the east and 125 feet from the property zoned "SF-6" located to the south. Total height of the building is to be 12 feet, well below the 35 feet height restriction for "LC" Limited Commercial. The site is less than the two acre minimum size required for "LC" Limited Commercial property to be used for limited manufacturing, therefore the applicant is requesting this variance.

The area surrounding of the application area is characterized by commercial uses to the west and northwest, including a bowling alley located across St. Louis Avenue to the northwest and two restaurants adjoining the site to the west. Both restaurants face onto West Street. The bowling alley also faces onto West Street, however the entrance to the child care services supporting it is situated on the rear of the lot, directly across St. Louis Avenue from the application area. The remaining uses surrounding the application area to the northeast, east and south are residential. Single family houses are located directly east and across St. Louis to the northeast. Several in fill houses are located within a two-block radius of the property. To the north of the single family houses along St. Louis is an apartment complex. There is one residence on an oversized lot adjoining the southern boundary of the application area.

ADJACENT ZONING AND LAND USE:

NORTH: "LC" "Limited Commercial"; bowling alley
SOUTH: "SF-6" "Single Family"; single-family residence
EAST: "SF-6" "Single Family";, single-family residences
WEST: "LC" "Limited Commercial"; two restaurants

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the site is a relatively large (1.6 acres) tract of vacant land that is still undeveloped in this area. It is also unlikely that this site is viewed as a good retail site since it does not have arterial street frontage, and because of its proximity to nonresidential uses, it is not likely that residential uses would be developed on this site.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as the proposed use of light aircraft assembly will be a clean and quiet manufacturing use. The area is already one of transition with non-residential uses already in the area. The conditions placed on the property by the conditional use permit, along with the setback, screening and landscape requirements in the City Code, will also ensure that any adverse impacts are minimized.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning regulations may constitute an unnecessary hardship upon the applicant, inasmuch as staff is looking to remove the two acre minimum lot size currently contained in the code.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as it would put a property that has been vacant for some time to a positive use and will provide additional employment opportunities.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch as staff is proposing to remove the two acre requirement.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted, subject to the following conditions:

1. The site shall be developed and required to comply with all building, zoning, and landscape code requirements, except that the required minimum 2 acres for limited manufacturing in the "LC" district may be reduced to 1.64 acres.

2. The applicant shall meet all conditions of approval of Conditional Use CU-506.
3. The height from grade to the peak of the roof shall not exceed 12 feet.
4. The applicant shall obtain all local permits necessary to construct the manufacturing building and all improvements shall be completed within one year following BZA approval of the variance or resolution unless such time period is extended by the BZA.
5. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

FOSTER: : I don't know whether you know this, may we assume the applicant doesn't own any other land but this particular site?

MILLER: I couldn't verify that.

FOSTER: Site of 1.6 acres.

MILLER: I can't answer that! I mean I'm assuming that is true, but they are here I think.

FOSTER: Is there any questions from the staff? This has already been approved by the planning commission, does it go forward to the governing body or anything?

MILLER: Only if there is a protest.

FOSTER: OK, alright. Thank you Dale!

FOSTER: Lets call on the applicant. Please give you name and address.

Garrett Addison, Vice Precedence of Smith Construction Company Inc., our street address is 4620 Estner:

FOSTER: OK. Mr. Addison let me interrupt you a moment to ask you do you agree with the staff report that you have had a chance to look at it.

ADDISON: We have no problem at all with the staff report, with one exception and this maybe a little bit my fault. They stated that the maximum height of the building to be 12' at the peek, the building was designed to be 12' at the eve. Which would make it

13'10 at the peak with a one-twelve roof pitch. Which is still considerable lower than most houses and everything.

FOSTER: Let's try to clear that up. Was there any reason Dale to have 12 as such?

MILLER: Must have been a misunderstanding on...

FOSTER: Was it in relationship because there were houses nearby and so forth.

MILLER: Yes!

FOSTER: Alright. Would 14 be OK!

ADDISON: Sure, and we will be under 14.

FOSTER: Alright, Let's hold that thought. Let me ask the board do we need to hear anymore on this at this particular point. Anybody need anymore information, any of the board members! Is there anybody to speak to this question here. Alright! I read this very carefully. I have looked at the sight. Is there anything else you want us to know.

ADDISON: No...we have no problem with the staff's recommendation other than the height.

FOSTER: Alright. Let me thank you then, I'm are buying just a little time here since we have a lot of people today. And I'll confine the discussion to the board itself. I think everything is in order, certainly we do not want a piece of land like that unused.

PHILLIPS moved and **ROGERS** seconded that the Board accept the findings of fact as set forth in the Secretary's Report, and that the Board find that all five conditions set out in Section 2.12.590. B of the city code as necessary for the granting of a variance have been found to exist and that the variance be granted subject to the conditions set out in the secretary's report and noted that the 12' limit be increased to 14'.

Motion carries 4-0.

1. The site shall be developed and required to comply with all building, zoning, and landscape code requirements, except that the required minimum 2 acres for limited manufacturing in the "LC" district may be reduced to 1.64 acres.
2. The applicant shall meet all conditions of approval of Conditional Use CU-506.

3. The height from grade to the peak of the roof shall not exceed 14 feet.
 4. The applicant shall obtain all local permits necessary to construct the manufacturing building and all improvements shall be completed within one year following BZA approval of the variance or resolution unless such time period is extended by the BZA.
 5. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.
4. **Case No. BZA 5-99**, City of Wichita Fleet and Bldg... Division, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to allow on street parking and waive off street parking requirements on property zoned "SF-6" Single-Family Residential.

A complete legal description is available for public inspection at the Metropolitan Area Planning Department, 10th Floor, City Hall, 455 North Main Street, Wichita, KS 67202-1688. Generally located at Cedar Street on the north, Lewis on the south, Circle Drive on the east, and Clifton on the west.

MILLER: reviewed staff report the comments from the Secretary's Report and presented slides of the area.

BACKGROUND: The applicant requests a variance to reduce code required off-street parking from 65 spaces to 0 spaces for the proposed College Hill Park swimming pool renovation project. The application area is located south of Waterman Street extended, west of Circle Drive and east of south Clifton Avenue. The existing pool is to be torn out and replaced with a modern 4,544 square foot pool. The "Unified Zoning Code" requires one parking space per 70 square feet of pool area.

The residents of the College Hill neighborhood have formed a partnership with the City to assess themselves to pay for these improvements. One of the issues which surfaced during the petition drive was the concern that the construction of any new off-street parking spaces would change the historic character of the existing park and negatively impact the neighborhood. College Hill Park is part of the Merriman Park Addition which was platted in 1886. The street pattern today is pretty consistent with that platted in 1886.

Initially, some off-street parking spaces were to be located along Circle Drive, adjacent to the renovated pool. However, due to neighborhood opposition, and construction

bids exceeding the project budget, the off-street parking was deleted. The existing College Hill pool does not have any off-street parking today. Pool patrons park on Clifton and Circle Drive, which has signs along the park frontage indicating no parking between 9:00 P.M. and 6:00 A.M.. The park has approximately 450 linear feet of frontage along Clifton and approximately 500 feet of frontage along Circle Drive. Using 22 feet as the standard length for a parallel parking space, approximately 43 on- street spaces are available.

Anecdotal information indicates that most of the pool's patrons are nearby residents who walk to the pool. The park department surveyed three other community pools - Aley, Harvest and Boston - to assess expected parking demand. Those survey results indicated an actual usage range of 20 to 60 spaces at peak times.

ADJACENT ZONING AND LAND USE:

NORTH "TF-3, Two-family Residential"; single-family residences
SOUTH "SF-6", Single-family Residential; single-family residences
EAST "SF-6", Single-family Residential, College Hill Park, single-family residences
WEST "SF-6", Single-family Residential and "TF-3", Two-family Residential; single-family residences

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the site was platted in 1886. The overall street pattern has remained much the same today. The historic significance of the homes, the park and the circulation pattern is important to area residents. The addition of off-street parking spaces would change the historic character of the pool area and reduce the amount of green space for recreation. Further this project was neighborhood initiated and the pool renovation is possible only because the City and neighborhood residents have worked together.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as the current pool does not have any off-street parking. It is anticipated that pool patronage will continue to be mostly by residents walking to the pool after the new pool is built. There may some increase in non-neighborhood usage due to the newness of the pool, however since it is somewhat inconvenient to find, it is thought that this situation would be minimal. Just along the frontage of the park, an estimated 43 spaces are available.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning regulations may constitute an unnecessary hardship upon the applicant, inasmuch as most neighbors appear to be opposed to the addition of new spaces since new off-street spaces would change the character of the neighborhood. The need for additional funding to pay for the parking could threaten the project since this project originated with neighborhood residents and is to be paid with special assessment and

tax dollars.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as this project is a public-private endeavor intended to promote the well being and increase the quality of life of neighborhood residents and the city's residents as a whole by providing quality recreational facilities

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch as there are competing goals. The need to provide adequate parking and the desire to preserve green space and minimize changes to the historic layout of the neighborhood. In this case, it is felt that most patrons over the long run will be neighborhood residents, most of whom traditionally walk to the park. Therefore, the on-street parking spaces are felt to be adequate to handle parking demand.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted. Staff also recommends that the Traffic Engineer monitor activity after the new pool opens, and determine whether segments of Clifton Avenue and Circle Drive adjacent to the park should be designated as loading and unloading areas, to minimize traffic congestion and hazards to motorist visibility.

FOSTER: Call on the applicant.

NORMAN JAKOVAC, CITY OF WICHITA FLEET AND BUILDINGS CONSTRUCTION SUPERINTENDENT: I can answer any questions that you might have otherwise I would like to turn it over to Beth King with the College Hill Neighborhood Association. She has followed this project for four years and I have only been on it for six months. She has more history and could probably answer your questions better than I.

BETH KING, 4222 East English, Wichita, KS 67218, As Norman suggested I am entering my fourth year working on this project, it is certainly something that I wish we hadn't have had to do. But the political atmosphere was such that if we were going to keep a pool in College Hill Park, a partnership appeared mandated. What we actually did in College Hill in the one square mile, was create a benefit district. We have had the benefit district authorized and College Hill and private funding account for five hundred thousand of this project which the total amount is 750,000. What we would have preferred to not to have had to have enter into this partnership. We certainly now are very proud that we are moving forward now with a good partnership with the City. This project in many ways was the cart before the horse situation. We had a task force created once the City announced that the existing pool was going to be closed. We worked with the assistance of an independent architect who began to help us look at different kinds of designs that we felt that would be accommodating with a family and a

neighborhood type pool. To make a very long story short, as the task force worked toward a particular design, we then realized that the increased size of the pool would mandate additional parking spaces. It was at that time that the architect who worked with us created a rendering that showed some cut-ins along Circle Drive. That did not appear at that time to be sufficient. We thought that we were looking at the possibility of a requisite parking lot. We immediately went to folks who live around the pool on Circle and Clifton and asked them would you like a parking lot in College Hill in order to accommodate the code requirement for this new pool. The overwhelming response that we had was no. No parking lot. It was at that time that we requested the park department do a peak study of compatible neighborhood pools. And that is the information that Mr. Miller referred to. Jerry Liebst with the recreation division is here to share that information with you if you find it necessary.

In the recreation division's looking at that data and their visits with the Planning Department it was determined that we could feel comfortable moving forward with the larger pool and looking to waive the parking requirements of the larger size. That was an element, if you will, that we used when we forwarded the proposal through the neighborhood. If you are familiar and I am sure that you are with benefit districts in order for this benefit district to be authorized and for the special assessment to be implemented we had to have majority support of property owners in the neighborhood so we had to have all of our ducks in a row in order to sell this concept to our 2,000 property owners. One of the items in that proposal was that we would not add a parking lot, that we would not add additional cut-ins because of the opposition of the neighborhood. That is specified in the letter of intent that we were able to obtain from the City, signed by the Mayor quite some time ago in early stages of this project. I know that there are folks on Clifton and Circle Drive who remain concerned about what this pool may draw in terms of parking needs. Make no mistake I share that same concern with them. I think what is important here is that we do have the ability to work with traffic engineering to see what the real consequence of this new pool will be in terms of parking demand. Hopefully, it will be very low. Because again I envision this design is neighborhood and family friendly. But we do have the opportunity to look at alternatives if it appears that there is an additional parking problem and I am sure the neighborhood would be will to be creative and think out side the box on some alternates solutions. I hope that is some assistance to you of giving you some history as to how the neighborhood came to reach what we are requesting today. If you have any questions I would be happy to try answer those for you.

JOANN ROBERTSON, 355 S. CLIFTON, WICHITA, KS 67218: I thank you for the notice of this public hearing. Many of us on Clifton, which is on the west side of the pool first learned that there would be no off-street parking by this memo. I attended the meeting last night, and spoke in opposition because by the zoning code we need 65 parking spaces. On Clifton and Circle Drive there are not that many. This pool is changing, presently we have had a children's pool from six to age fifteen, were the ones that swam in College Hill park. Now we are going to have a neighborhood pool for adults as well as children. The layout of the pool has changed from the east to the

west now from the north to the south. So in this park we are losing much of our greenery. At the far south end of this park we have a children play area. The members of the community on the west side did not want to lose that children play area. It is for small children. All of our children have played there and now our grand children are playing there. No we did not want a parking lot there. On the east side of the park where the pool will be built there are no homes. No homes, on the west side there are sixteen homes on Clifton from Waterman to Lewis. We presently have difficulty getting in and out of our drives. These other pools that they has studied I believe that some of the neighborhood pools some of them already have parking lots because if I understood right only twenty or thirty spaces in the parking lot were being used. How many of them have sixteen houses on one street with single drives and some of us share drives and some of us no garages. So, I counted this morning when I left there were eleven cars of are own people who had parked on the street. Taking up eleven spaces. Because people do park on the street since some do not have access to better parking facilities. I have twenty-four signatures on a petitions from those residences that live on Clifton between Waterman and Lewis asking you to reconsider this off street parking. We propose that there is a parking lot we are giving up part of our greenery for the pool extended from north to south therefore we think that it is only fitting that Circle Drive who has no neighbors give up park of their park for off the street parking. There, as I said, were sixteen residence, thirteen residences signed both two people in many instances one of those residences was out of town and unable to be reached and one man on the corner of Waterman and Clifton. His entrance faces Waterman and his garage and driveway are on Waterman and he was not available to get his signature. Whether he would have signed or not I do not know. The other one man refused to sign the petition. But I would like to share these petitions and the area which we think a parking lot or cut out should be indicated.

FOSTER: Will you show use where your house is in relationship with the pool.

ROBERTSON: Where my house is? We'll I do not know on this map but I am located on the corner of Clifton and Lewis. I actually have access to parking on Clifton and Lewis. I am right here.

FOSTER: Thank you.

PITTS: I am interested in knowing if these petitions were submitted to CPO.

ROBERTSON: No they were not. Because I was at the meeting last night. I did not feel like it was to my advantage to indicate that I had a petition signed. I did speak at the meeting last night and I was told that there was plenty of spaces for parking on the street and that we did not want to destroy the greenery in the park. I have lived at my home for thirty-four years. I have raised eight children. I have swam at College Hill Park, all my children learned to swim there. I love that park; It is part of me. As a matter of interest I might tell you that when I received this on the mail. Looking at the plots.

My husband's grandfather founded the Hartford Western Land Company which plotted this land. The land behind it is Robertson that was Fred Heresy Robertson and Ed Robertson, the founders of the Hafford Western Land. Further on down you see Yale street that was Fred Heresy Robertson's wife was a Yale. On the next plot over is Fredrick and that was Frederick's name. So we have been associated with this area through our lifetime and our grandfather's and we are very much committed to this area and we object strenuously to what the parking facilities is going to do for Clifton.

FOSTER: Let me ask you. The people signing this petition are also saying that there should not be a new swimming pool there?

ROBERTSON: They want the pool. But we feel like we have to do something with the parking on Clifton street. It is very congested during the summer time with the pool being just for children. We feel that it is going to be more so, since it is going to a family oriented pool. The parking is not going to decrease it is going to increase.

FOSTER: Did the people you talked to have a solution to this problem.

ROBERTSON: Yes. If you will notice the petition that they signed suggested that there be parking across on Circle and make a parking lot there. Which I know is not in tune with the planning of the facility, but I think the sixteen families on the other side of the block should have some consideration. The only consideration we were given was do you want a parking lot next to the pool? No we do not because we do not want to lose the play equipment. We are already losing our field were the children play football and baseball, and soccer because the pool is going to change direction and it is going to be taking up more of that park.

FOSTER: At the College Hill Park there is no parking on it now. Is that correct? They park so to speak, I am looking at the map here Reserve C. Is there no parking for that park at all?

ROBERTSON: Parking lot you mean? No there is no parking lot anywhere. The area that we just outlined on the map for a possible indentation or a parking lot. There are no homes adjacent to that. There are only two trees in the parking spot from the street to the sidewalk and there was room for a driveway. Two of the huge trees have been diseased and one is completely gone and the other the trunk is there. There are no trees that would even be distributed. The aesthic would be destroyed with a paved parking, but many people objected to the basketball goal and the cement that was laid in that area and that seemed to work out well and many people have enjoyed that facility and been able to play where they were not able to before.

FOSTER: The fact that some of the recreational equipment would be removed by the project. Were some of these involved with traffic as well?

ROBERTSON: No. That if we had a parking lot. It was recommended that the parking lot be in the same park where the pool was. That would indicate probably the necessity to remove the playground equipment. The residences on Clifton did not want that playground equipment removed and that was their opposition to the playground and the parking lot. But, why couldn't the parking lot be across the street on the east side of Circle or the indentation on the east side of Circle where there are no houses.

FOSTER: How do you feel about the staff recommendations that they traffic engineer monitor the activities with the idea of reporting back to the board. As to whether there would be traffic problems in the future.

ROBERTSON: That would be after the fact? Right after the pool has already been there? I suppose that is better than nothing. But we have suffered with just the pool as is with traffic congestion on the west side of Clifton. So we feel very strongly that it is going to get worse instead of better. Many people on the west side have had to go to people who had children over there swimming and ask them to move their cars in order for them to get out of their drives. That has been a common complaint of several of the neighbors.

FOSTER: Has the city been approached to put in any parking in the existing park? Not in the swimming pool area but across the street? Dale do you know?

MILLER: Norman or Beth may have some information on that.

KING: First, I would like to say that there were fourteen different attempts over a prolonged period of time in writing to notify all of the residence of College Hill as to the particulars of this pool project, not the least of which was an attempt which would be forthcoming to create this variance. There certainly was information that was in a newsletter that started before the petition process began. The revision of this pool will only take fifteen feet south of the existing sidewalk line which is south of the existing pool now. So as we begin to visit not only with residence but with planners if you will, what options we had for parking. The difficulties that we came into in terms of building a parking lot or any kind of cut in along Circle Drive had to do with neighborhood concerns about the fact that children are crossing from green space to green space right across Circle. If we were to have proposed a parking lot or cut-ins which would have required backing out, there were serious concerns on the part of residence and folks throughout the neighborhood that, that would be some imminent danger to children who frequently cross at that cross walk without adult supervision. The other very serious concern about a parking lot, whether it would have been located south of the pool or east of Circle Drive and the other portion of the park was that it would bring additional traffic into the area. It would bring noise, it probably bring loitering, bring littering, lightening requirements and the overall sentiment from the neighbors was that if we could in some way continue the feel of this pool as I suggest for a neighborhood family type pool and discourage additional traffic noise, loitering etc. it would be most

beneficial to folks who live near the park. There was certainly discussion about the possibility of cut-ins. There was certainly discussion about the possibility of parking lot be it west or east of Circle Drive those things were certainly in the minds of the task force. The basic feeling was at this point and time it was better to leave the park and the parking requirements as they are now and that if we needed to reactive that the neighborhood would be very happy to work with residence and traffic engineering in re-defining that. I hope that clears up maybe some of that thinking that went into the creation of the project.

FOSTER: Were you at that meeting. You all refer to a meeting may we assume that was CPO or was that a neighborhood meeting last night?

KING: There was a CPO meeting last night at which the BZA variance was presented. I would tell you that the College Hill Neighborhood Association and it's task force met more times than I could count to put this proposal together over a two and a half year period.

FOSTER Were there other members last night at the CPO meeting?

KING: Yes sir there were. There were a couple of folks from the neighborhood were concerned as Mrs. Robertson is about the parking and there was at least one other gentlemen whom I know lives on Clifton, actually let me show you. I believe it is this house or this house, Mr. Jim Nape who lives on Clifton in one of those two houses and was there speaking in favor of no parking lot, no cut-in leave it as it is. So there was some divisiveness.

FOSTER: Let me ask the staff. I do not see and we do not have overnight service from CPO.

KING: I would suggest to you given the fact the neighborhood is funding \$500,000 of this project and that it was sold to the individual property owners with the understanding that there would be no cut-in's and no parking lot. I think for us to look otherwise at this point may be doing a disservice to that understanding which was created initially from our prospective and what we thought we had created with the Council.

PITTS: May I ask Mrs. King, how long have you known that there was opposition from the Clifton street residences to the parking requirement?

KING: I am some what surprised.

PITTS: Did you know about this list? Or petition?

KING: No sir I did not. And when we first began talking about the parking lot, it was my understanding and the work with the task force that the folks on Clifton and Circle had

been discussed with them. The feed back that I got as precedence of the neighborhood association at that time was that the folks on Clifton and on Circle were comfortable with leaving things as they were rather than a parking lot. I am very surprised by this. I do know that there are folks who live on south Clifton who are adamantly opposed to this pool project. Mrs. Robertson has neighbors who are not. But I do know that there are some folks on South Clifton who are just opposed to this project period. This does come as a surprise to me.

FOSTER: Any other questions of Mrs. King? Thank You.

ROBERTSON: We had to call done to clarify exactly what this meeting was about. We did not understand what a variance to allow street parking and waive off-street parking requirements. It was our understanding that there was going to be cut-in's. I know that Beth King said that it was clear when we voted that was true and that we all knew that. I do not know where the residences on South Clifton were, but when I took this petition around there was only one man out of all the families that I visited that knew that the off-street parking had been scraped from the original proposal.

FOSTER: Don't you mean by cut-in's.

ROBERTSON: Cut-in's yes. The reason that we drew this petition up was because my neighbors were not able to come to this meeting. I have recently retired and therefore I seem to have more time to do those kinds of things then most working people. The proposal about the parking lot as I understand it that was mentioned was never anywhere other than right adjacent to the pool. No the people on South Clifton did not want a parking lot on top of the pool. With the idea of probably losing their play ground for the little children. There is nothing in the second park or the park east along that whole Circle. No family homes, nothing there but the green grass and that is why we propose that there be something put over there.

FOSTER: Any other questions of Mrs. Robertson. Anyone else to speak to this case. There is a sign up sheet on the back over there and we ask that you sign it we would appreciate it. I will confine the discussion to the Board. I would like to make the comment myself, as a city planner I have had limited experience but some with swimming pools and the parking requirements are varied. I have seen parking requirements that used to be 38 square feet and now we are at 70 square feet. Lots of times until you get to Memorial Day or Labor Day often the peak does not arrive to use the pool. It is the characteristic of the pool and it can be quite varied as to the parking. You seem to have a case that is like wanting their cake and eat it to. I think we have got a hard decision to make here. I certainly support the idea that with a three acre for the swimming pool that they not put parking on it. It is a limited amount as it is to have swimming pool and activity around it. Comments of the Board.

PHILLIPS: I was at the meeting last night so I did get to hear first hand a lot of the comments. I guess I am a little surprised Mrs. Robertson, I did listen to you last night and when you have a public venue such as CPO meeting, I think that if you have petitions I think you should present that. I think maybe it may have had a impact may have not. You had a pretty good audience last night. I am a little surprised to see this. But also I was there to hear the fact that Mr. Nape who got up and speak in favor of it. And there were more people there in favor of it then spoke against it. I am not speaking one way or the other I am just speaking from what I heard last night. I did attend the meeting and I am impressed by the fact that when I have to give staff a pat on the back that they have left the door open for those on Clifton who do have some consequences here or some may have some effect from this. Because I think like anyone else like you are saying the requirements are changing and probably will change and you have something here that is seasonal. Make some calculations here at put 65 cars out there roughly 400 square feet you are talking about 26,000 square feet or roughly ½ acres of asphalt. I am not so sure that is a minimal impact on the park. In fact I can guarantee that it is not a minimal impact. I do have some concerns that you park that many cars across the street and in any kind of neighborhood where you can and do not monitor it properly if it is not being used for the designated purposes it will end up being something from whoever and wherever is going to gather in the off hours. I guess I think the approach is right here. I think that the benefit district realizes that the city and the benefit district and the committee did leave the door open that there may have to be some signage control to help those people on Clifton who do suffer from this. I think they have left the door open that in monitoring this that if there is some demand for parking and it has to be put in, my hope is that it is not for 65 cars. Again, I have to take my hat off to everybody involved that everything was well heard, well discussed, well thought out. I am ready to vote for this, I think this is the right approach.

FOSTER: I would think also that this pool would have to go from being a children pool to an adult pool just from the financial point of few today. You do not see to many pools just limited use anymore because of the expense of operating the pool and so forth. That would not surprise me is the point I am making. I have been to a lot of pools in the afternoon checking them in cities and I am surprised at how few cars there are there. I think we are talking about peak parking on special holidays and special nice warm days.

PHILLIPS: I do think that Mrs. Robertson need to be aware of the fact that she does have an avenue to reply and respond. I would think that city staff hopefully would give her a number in case there is a problem. Given the history the way the city has begun to review projects like this which have generated this kind of interest that the continue to do this. Mrs. Robertson we had a case not to long ago where an application was denied because they did not maintain the landscaping. That did not happen five or six years ago. I really think this is a good solution. We do need to consider the residence across Clifton there to make sure they are not hampered. Those lots are narrow and

the driveways are narrow and they have been there a long time. So hopefully if there is a problem the city will respond and do the right thing and put in proper sign control.

PITTS: Where is that mentioned in here that it would be monitored.

FOSTER: It is listed as a recommendation. I would like to see it as a condition. As Mr. Phillips indicated we have in the past had properties where we do monitor the situation and try to improve it over time when there are particular hardships involved. My suggestion to the Board is to make the traffic engineer monitor activity a condition. And I would also like to see under hardship, I feel just as the BZA you will notice that Dale has in the second sentence there is the need for additional funding to pay for the parking could threaten the project. Well I do not doubt that is true but I have to tell you that the BZA can not always take into account financial problems. Everybody has financial hardships you heard people on signs here that said we will not have as many customers because we do not have signs. I would like to see that sentence taken out because I do not believe it should be part of our decision because it would be a financial hardship on this part of the problem. I am not sure that is part of our job. Our job is to decide whether this should be a less parking.

PHILLIPS: I disagree with that.

PITTS: Hardship is one of the things we normally take into consideration.

PHILLIPS: This is a joint project.

FOSTER: The fact that somebody can't pay for something we have court cases in Kansas and everything that say that financial hardship is not necessarily strong factor in these matters. Hardship is but I do not think financial is.

PITTS: As long as the five areas that we consider.

PHILLIPS: I think we have considered that in the past. Whether it makes a project viable or not whether it really has an impact on the day to day operations I do not think we have ever tried to consider that whether it helps them make business or not. Whether it puts a financial strain, due comparing projects I think we have considered that. I am not opposed to that. If you feel strong enough we can it out. If somebody else agrees with Mr. Foster that need to be taken out I do not have a problem with that.

MILLER: The only reason I put that in there, Bickley points out financial hardship is usually not the factor, I felt this was worth putting in there because this was a unique situation were the petitions have already been done. The assessments have been spread. That is all there is.

PHILLIPS: I think the major hardship is the fact and Mrs. Robertson would probably

would agree that you take a ½ acre of green space away from here I think that is a real hardship and intrusion not only to the neighborhood but the park itself. I think that is a significant hardship there.

PITTS: That is if a parking facility were located in College Hill Park.

PHILLIPS: Right.

FOSTER: Why don't we do this. I would like to see and maybe it is a small point I just do not like the use of the word threaten. I would like to say could create a hardship for the project.

PHILLIPS moved and **ROGERS** seconded that the Board accept the findings of fact as set forth in the Secretary's Report, and that the Board find that the five conditions set out in Section 2.12.590.B of the code as necessary for the granting of a variance have been found to exist, and the variance be granted subject to conditions set out in the Secretary's Report. With the exception that the hardship being amended to cross out the word threaten and put in the word create a hardship or jeopardizes the project. Under the recommendation phase of the report. That the recommendation that the traffic be monitored be made a conditions of this motion.

MOTION: Carries 4-0.

FOSTER: Mr. Cox from Office of Central Inspection is not here and I hope that Dale will add this to his list for monitoring and report back to use. Mrs. Robertson let Dale know about it.

1. The Traffic Engineer monitor activity after the new pool opens, and determine whether segments of Clifton Avenue and Circle Drive adjacent to the park should be designated as loading and unloading areas, to minimize traffic congestion and hazards to motorist visibility.
5. **Case No. BZA 6-99**, Scott Developers, L.L.C., pursuant to Section 2.12.590.B, Code of the City of Wichita, request a variance to reduce the front setback from 25 feet to 10 feet on property zoned ""SF-6" Single-Family Residential.

A complete legal description is available for public inspection at the Metropolitan Area Planning Department, 10th Floor, City Hall, 455 North Main Street, Wichita, KS 67202-1688. Generally located south of Central and east of Bridgefield Street.

MILLER: reviewed the comments from the Secretary's Report and presented slides of the area.

BACKGROUND: The application area, Reserve G of the Bridgefield Addition, is part of a developing subdivision and is to be the site of a neighborhood pool. The applicants have previously received approval for a Conditional Use (CU-497) to permit a neighborhood pool and a vacation case (V-2142) has been approved to reduce the platted building setback line along Bridgefield from 25 feet to 10 feet. However, this property is zoned "SF-6", Single-family Residential which has a 25 foot front yard setback requirement. Since the vacation case could only deal with the platted building setback, a zoning variance is necessary to reduce the zoning code required front yard setback from 25 feet to 10 feet.

The applicant's site plan shows a pool building and a portion of the pool apron are to be constructed within the required 25 foot building setback. The plan also shows parking is to be located within the zoning setback line not covered by this variance. Since this parking area was not included in the variance request, an "administrative adjustment" will be required to permit parking to be constructed as shown since parking is not permitted within the front setback line of property zoned "SF-6".

Due to the curvilinear nature of Bridgefield, Reserve G is the only property on the east side of Bridgefield that fronts Bridgefield. There are vacant platted lots across the street from the proposed pool which front Bridgefield. There is a home constructed on the corner lot located north of Reserve G, but it fronts Bridgefield Court. There is a mix of developed and undeveloped lots east and northeast of the reserve. There is also a hedgerow along the east line of the reserve.

ADJACENT ZONING AND LAND USE:

NORTH	"SF-6", Single-family; mix of developed and vacant residential lots
SOUTH	"SF-6", Single-family; vacant platted residential lots
EAST	"SF-6", Single-family; mix of developed and vacant residential lots
WEST	"SF-6", Single-family; vacant platted residential lots

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as it is an odd shaped triangular piece of property and the lot layout for the block in which the property is situated has left the application area as the only property in that block to front Bridgefield. The other lots adjacent to the site either side or back onto the application area, so there should not be any conflict between buildings sticking further out in front of other buildings. The applicant has also stated that the lot needs to be developed as shown on the site to avoid removing a row of trees located along the reserve's east line.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as the reduced setback should not affect lots across the street since only a small portion of the area to be vacated will contain a building. The rest of the area is pool apron and open space. The lots across the street are currently vacant and any prospective home builder would have opportunity to know about the reduced building setback.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning regulations may constitute an unnecessary hardship upon the applicant, inasmuch as the area has been platted. All other land in the area has been platted as residential lots and the applicant would need to reconfigure a number of lots to create an area that could serve as a pool area. To reconfigure the plat would be a major disruption to the applicant, and some of the lots have been sold depicting the current layout.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as the neighborhood pool would enhance the quality of life of the residents of the subdivision.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch as the development of the pool and the limited scale of buildings associated with the pool will not damage the goal of these regulations of preserving access to light, air and open space.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted, subject to the following conditions:

1. An Administrative Adjustment be filed to reduce the front building setback line from 25 feet to 15 feet in the area needed for parking.
2. The site shall be developed in general conformance with the approved site plan.

FOSTER: Questions of staff?

RUSS EWY, BAUGHMAN COMPANY AGENT FOR THE APPLICANT: I believe the staff report is quite comprehensive and complete. Yesterday this matter went before CPO Council (2) where we received a 5-0 vote of approval for this project. As Dale pointed out the condition number #1 of the staff report states that we remedy the parking lot intrusion into the front setback by a zoning adjustment. That was filed last Wednesday the 17th of March. That should be completed by this next following

Monday. To keep this meeting as short I will answer any questions that you may have.

FOSTER: Was this part of a CUP at any time?

EWY: No Sir. This is a single-family subdivision, Bridgefield. This was platted as Reserve "G" the basic intent and I do have a subdivision plat of the entire subdivision which may shed some light on how this Reserve function as part of the overall drainage feature of the subdivision. Let me breeze through here to get to the aerial. There is a drainage reserve that is platted that continues from Crest view Country Club and the subdivision to the North and continues to the South through our Reserve "G" twenty foot drainage and utility easement coming along the rear lines through Reserve "G". The arrow here covers up Reserve "H" that continues that drainage and then you can pick up here the channel of that creek that flows further to the south and onto KDOT property. Reserve "G" is platted for that purpose I believe that it was the intent at the time that this plat was recorded in going through the subdivision process, that there were no additional amenities for the neighborhood to be included in the platters text as part of the permitted use and operation of the Reserve. As lots were being sold and I must say that the houses built are owned by construction company contractors I believe two different contractors at the time that the homes started being built I think that the developers rethought the proposal of a neighborhood amenity like a swimming pool and that is when we began working with them. It is a pretty easy thing to establish in a neighborhood through the platting process. You do have to go through a few hoops if you want to include a neighborhood swimming pool at a later date. That is the course that we are on now. As Dale mentioned we have gone through approval of a conditional use to establish the neighborhood pool within a Reserve "G" the geometries of that lot or that Reserve as well as the natural features of that Reserve slopes off quite considerably the further East you go. Really necessities pushing that development as far to the West as possible. The fact that the developers still retain ownership of the effected lots to the West and to the Southwest really gives us an opportunity to go through this course of action now. As opposed to a later date.

FOSTER: You checked the plat and did it limit the use of this land in any way? To retain it to open space. Is there any restrictions that you are aware of that would prevent it to prevent it from being used as a swimming pool?

EWY: No Sir. We will have to make the addendum to the platters text to include it as a permit use but it does not exclude the use of this property for those purposes. The drainage features of this entire subdivision will not be altered by development on this particular site.

FOSTER: So you have concurred activity going on for a CUP?

EWY: No Sir. There is no CUP.

FOSTER: Just the plat itself?

EWY: Right, this was platted simply as any other piece of ground would be platted into a residential subdivision. A residential CUP would allow for various other development or housing types. This is straight single-family development. We obtained the conditional use, not a CUP, to establish a neighborhood swimming pool use just within that area. That is Reserve "G"

FOSTER: This will be maintained by a Homeowners Association?

EWY: Yes Sir.

FOSTER: Are there houses there to the left? Right across the street already.

EWY: No Sir. There is a house in lot 1 Bridgefield Court. I believe from what Dale had shown that there are some houses here. I know that there are a number of houses along Central Avenue.

FOSTER: There are no houses yet on the left side. So anybody buying there would be put on notice if this variance was granted.

EWY: Yes. These lots here and all the way down to Reserve "H" as well as the bulk of the Southern tip of this subdivision are still owned by Scott Developers.

FOSTER: Are those fairly good sized lots?

EWY: I can give you the exact specifications of those lots. I do not have them off the top of my head. Probably 85 feet.

FOSTER: Is there going to be any screening of this between the roadway and the swimming pool area?

EWY: Not that I am aware of. There is screening that was made a condition of approval for the conditional use along the North property line but nothing on the street side. Whether they are going to plant any street trees as an amenity I really can not answer that questions.

FOSTER: Dale, would there be any requirements of planting trees on the street side.

MILLER: If we did it would have been a condition of the conditional use. I do not remember what we did there.

FOSTER: I would express a concern about that. We are talking lightening, noise and so forth there. Anything else you would like to present.

EWY: I do not believe that there would be any pole lightening there may be some external building lightening as part of the development but the nighttime impact of this development I would say would be minimal.

FOSTER: Did they approve as part of the conditional use a site plan for it?

EWY: Yes. That is the site plan that you have here. Just with the additional.

FOSTER: In other words they actually approved a site plan?

EWY: That is the site plan including the nine parking stalls and the landscaping to the North solid screening to the North. The pool configuration as shown is all part of that conditional use application.

FOSTER: I am not sure I would want to back out of that corner.

PHILLIPS: Maybe I can shed some light on this thing in terms. It is not usually that we have two projects back to back. The College Hill Pool is 4,000 square feet, this is 800 square feet, this is nothing more than a residential pool this is the same size pool that probably bigger in either direction which you would normally put in a back yard. Really I think that noise, from the standpoint from the number of people and number of cars you can get there I really think that is kind of minimal. They have put the building in between there will be a required fencing around it. I am sure the developer because of just having to maintain this and do this thing right they will have some landscaping associated with this.

FOSTER: I do not know if I see trees out there but I certainly think some landscaping would be good. It is not shown that is why I bring it up.

ROGERS moved PHILLIPS seconded, that the Board accept the findings of fact as set forth in the Secretary's Report, and that the Board find that the five conditions set out in Section 2.12.590.B of the code as necessary for the granting of a variance have been found to exist, and the variance be granted subject to conditions set out in the Secretary's Report.

Motion carries 4-0.

1. An Administrative Adjustment be filed to reduce the front building setback line from 25 feet to 15 feet in the area needed for parking.

2. The site shall be developed in general conformance with the approved site plan.

6. **Case No. BZA 7-99**, Advantage Properties, c/o Greg Barnes, pursuant to Section 2.12.590.B, Code of the City of Wichita, request a variance to reduce the compatible building setback from 25 feet to 12 feet on the north property line.

A complete legal description is available for public inspection at the Metropolitan Area Planning Department, 10th Floor, City Hall, 455 North Main Street, Wichita, KS 67202-1688. Generally located at the NW corner of 21st and Prince.

MILLER: reviewed the comments from the Secretary's Report and presented slides of the area.

BACKGROUND: The applicant proposes to construct a 30 foot by 80 foot addition to the rear of a strip retail center known as Kay Plaza. Kay Plaza is located north of Central and west of Prince. Building plans submitted to the Office of Central Inspection indicate the addition is to be 15 feet tall. The addition will be setback approximately 180 feet from Prince. The west elevation of the addition is to be flush with the west facade of the existing strip center. Building plans also indicate no windows or openings along the north and west facades. A garage door is depicted on the east facade of the addition, facing Prince. Access to the addition is off of Prince, along the north side of the strip center. The applicant indicates the addition provides storage space for uses inside the strip center.

"Unified Zoning Code" compatibility setback standards are triggered when buildings in the "MF-18" or less restrictive districts are located on zoning lots within 500 feet of property zoned "TF-3" or more restrictive. The code requires buildings located in the MF-18 or less restrictive districts to be setback a minimum of 15 feet from the rear or side yards of property zoned "TF-3" or more restrictive. In this case, the applicant proposes to construct the addition within 12 feet of the rear lot line of property zoned "SF-6", Single-family Residential. Some of the residential lots have wooden fences along their rear lot line, mostly east of the proposed addition. A chain link fence is in place along the rear of the lot closest to the addition. Zoning code requires a solid

fence along this common property line. The Landscape Ordinance also requires buffer landscaping at the rate of one tree per 40 linear feet of common property line.

The lots north of the application area are developed with single-family homes which face north, fronting Audrey. Property immediately east of the strip center is located east of Prince, is zoned "LC", Limited Commercial and is vacant. Property south of the strip center is vacant and is zoned "MF-29", Multiple Family. A car wash, zoned "LC", Limited Commercial is located west of the addition.

ADJACENT ZONING AND LAND USE:

NORTH	"SF-6", Single-family Residential; single-family residences
SOUTH	"MF-29", Multiple family Residential; vacant
EAST	"LC", Limited Commercial; vacant
WEST	"LC", Limited Commercial; car wash

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the lot is irregular in shape and the site is already developed with a rectangular strip mall. The way the mall is sited on the property by the time the required parking was installed, there is not any space in front of the mall to add any additional storage space.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners, inasmuch as the addition does not have any openings facing the residences, and the "Unified Zoning Code" and Landscape Ordinance require solid screening and trees planted between residential uses and nonresidential uses.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning regulations may constitute an unnecessary hardship upon the applicant, inasmuch as the strip center is out of storage space for its leaseholders and there is not any other available location to build storage space on the site.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as addition is relatively small, is out-of-sight to most people and it is in the public's interest to support private revitalization efforts along the 21st Street corridor.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch as the code-required screening and landscaping and lack of openings along the north facade minimizes any negative impact on adjoining properties which is the purpose of the compatibility standards.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted.

FOSTER: Is that the 12 feet between the forms and the fence?

MILLER: Yes. Marvin asked me that same thing when I showed him the slides. I did not measure it myself. I am assuming that it is.

PHILLIPS: It almost appears the second fence. This may be on the subject property. There is a second fence beyond that.

MILLER: Yes. Right in there.

PHILLIPS: Can you go back to the slides we are kind of looking at that double fence there a little bit.

MILLER: He will need to add a solid wooden fence or the equivalent thereof in this space in order to be compliant with the code requirement that there be solid screening between residential and non-residential uses.

PHILLIPS: I can't tell from a drawing but is there to be in sort of drive or pavement or anything there. How is the 12 feet that is going to be left there going to be left?

MILLER: I am not for sure. It looked to me the way the drawing is drawn and the building plans is that there will be a garage type door in the eastern end of this building so they would access from Prince along the back side of the existing strip mall.

PHILLIPS: I am just concerned there is telephone power pole there.

MILLER: I did not think there was enough room in there to put a drive. But I am like you I could not really tell from the site plan. Whether this indicated whether this would be paved or not.

PHILLIPS: It shows a twelve foot distance there. Obviously there is room to do something I just did not what?

FOSTER: Dale why don't you leave that slide on and we can ask the applicant some questions.

GREG BARNES, ADVANTAGE PROPERTIES, APPLICANT, 2620 EAST 21st STREET,

FOSTER: Would you want just to move it along do you want to address the question that have been raised in that area. Where would the twelve feet hit?

BARNES: The twelve feet would hit from the other fence up to the building up to right here the foundation. From the second fence. No moving the pole.

PHILLIPS: It is an easement there, no drive or anything.

BARNES: No Sir.

PHILLIPS: That was really my questions there is not going to be a drive back there. I was wondering what the conditions of the surface was going to be back there.

PITTS: You are going to have a entrance to that add on from Prince street?

BARNES: It is from Prince street. Goes behind the shopping center.

FOSTER: Were you at the CPO meeting that considered this?

BARNES: No the architect was.

MILLER: They recommended approval.

FOSTER: Bear with me Mr. Barnes, I am looking for the copy. Dale you were there? The one question that I had is that it mentions under uniqueness and talking about the adjacent properties about not having any opening spaces. Would this be a solid wall on that side?

BARNES: It is a metal going up and no opening on this side.

FOSTER: Would you be against having that as a condition. Just to guarantee that. Is that any problem? No opening, windows, or doors on that side.

BARNES: We are planning on putting a metal building up. The back door goes to the car wash and a garage double door going on the front of the metal building.

FOSTER: OK I am just thinking that in this twelve feet do you have any, it mentions and says the addition does not have any opening spaces facing the residence. Is that ok?

MILLER: I took that off the building plans that is where I got that.

FOSTER: There are no windows, or doors, along that twelve foot strip.

BARNES: No.

FOSTER: I would like to consider that as a condition.

PHILLIPS: That may be taken care of in the building review. Because certain times the proximity of property lines there are restrictions as to openings. Whether they are open or not. That may be part of the permit actually.

MILLER: I do not know the building codes that well.

PITTS: When you say an opening.

FOSTER: We are now getting twelve feet away from his neighbors. I would hate to have them put a dumpster out there, or something out there in the back. We are twelve feet away from the neighbors with a commercial building.

PITTS: He is going to have to put up a fence.

PHILLIPS: The openings there are going to be governed by the building codes. If you start doing that you are going to be more or less restrictive. That is OCI.

FOSTER: Mr. Barnes I probably interrupted you I was trying to save some time. Is there anything else you would like to tell the Board?

ROGERS: You understand the requirement about the solid wood fence and the landscaping along the back?

BARNES: Yes.

FOSTER: Let me ask Dale. Would it be landscaping or fencing or both?

MILLER: It will have to be the wooden fence or the equivalent of a wooden fence and one tree or the equivalent of one tree for every 30 feet. The landscape ordinance will require the trees and the zoning screening required the fence. So both of those will have to be met. They do not have to be literally strung along there every thirty feet but just the equivalent in terms of the trees.

PITTS: So if you have ninety feet back there you have to have three trees.

MILLER: Yes. Or he could substitute three shrubs for each tree. It is both though.

BARNES: You want the trees on the north side or the south side of the fence?

MILLER: Within fifteen feet of your property.

PHILLIPS: You only got twelve so there is not much of an option there.

FOSTER: Thank you Mr. Barnes.

PITTS: I think Mr. Barnes has done significant amount of work of improving that. A lot of dollars have been spent and this is going to help him improve his property and I am all in favor of it.

PHILLIPS: I think what he has been doing there and the amount of work that he has to do and what he has done I think it shows that he is making a major improvement of the area. I think that is where revitalization of areas can be commended. It is not easy.

PHILLIPS moves PITTS seconded, that the Board accept the findings of fact as set forth in the Secretary's Report, and that the Board find that the five conditions set out in Section 2.12.590.B of the code as necessary for the granting of a variance have been found to exist, and the variance be granted subject to conditions set out in the Secretary's Report.

MOTION carries 4-0.

PITTS: I would like to suggest that the staff get the minutes of the meetings caught up.

SIMMERING: I will try to have January, February and March 1999 completed as soon as possible.

MILLER: Suggested time limits on speakers. Timer will be installed soon at BZA meetings again.

PHILLIPS moves ROGER seconds to elect Dale Miller as the new BZA Secretary.

Motion carries 4-0.

Adjourned at 3:55 p.m.